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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/939,526

08/24/2001

David J. Boothby

042933/326776

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7590

03/01/2010

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

EXAMINER

VON BUHR, MARIA N

ART UNIT

PAPER NUMBER

2121

MAIL DATE

DELIVERY MODE

03/01/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

In re Application of:

DAVID J. BOOTHBY

Serial No.: 09/939,526

Filed: August 24, 2001

Docket: 042933/326776

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DECISION ON PETITION TO
RESET PERIOD FOR REPLY
TO OFFICE ACTION

Title: SYNCHRONIZATION OF RECURRING
RECORDS IN INCOMPATIBLE
DATABASES

This is a decision on the petition, filed on June 16, 2009 to reset the previously set period for reply to the Office action mailed February 04, 2009.

The Petition is **GRANTED**.

RECENT PROSECUTION HISTORY

August 24, 2001: Reissue Application filed.

February 04, 2009: Miscellaneous Communication including Requirement for Information under 37 CFR 1.105 mailed to Applicant with a shortened statutory period of 1 month to reply.

June 16, 2009: Petition to reset the previously set period for reply to an Office action

In support of the petition, petitioner provided the following:

(A) a statement of facts from Ms. Kay Costanza detailing that Ms. Costanza first became aware of the Office Action of February 4, 2009 on June 2, 2009 when she checked the application's status on the USPTO's PAIR system.

(B) an email sent from Ms. Costanza to the docketing department for the attorney of record on June 3, 2009 following discovery of the Office Action to inform the docketing department of

discovery of the Office Action and to request the docketing department to run a report of the docketing database for the attorney of record (IPMaster) for other office actions received and docketed in the same time frame as the Office Action should have been received by the attorney of record.

(C) a copy of the Office Action with a "Docketed Due Date" stamp indicating that the Office Action was docketed on June 3, 2009 in response to the email of Exhibit B.

(D)IPMaster docketing sheet for attorney Charles A. ("Drew")Leyes, the attorney primarily responsible for prosecution of the instant application at Alston & Bird LLP, for the week of March 4, 2009 when the response period for the Office Action was set to expire.

Petitioner further stated that as shown on the docketing sheet, the response to the Office Action for instant application is not listed on the docketing sheet. If the Office Action had been received by the docketing department for Alston & Bird, the response deadline would have been entered into IPMaster according to the standard practice of the docketing department and would have been reflected on the docketing sheet for Charles A. Leyes.

RELIEF REQUESTED

The Applicant respectfully requests to reset the previously set period for reply to the Office action mailed February 04, 2009.

RULES AND PROCEDURE

MPEP 711.03(c)(I)(A) states in part:

The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner **>describing the system used for recording an Office action received at the correspondence address of record with the USPTO.

....

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

DECISION

Petitioner contends that the Office Action, mailed February 04, 2009, was never received in the mail at the correspondence address of the attorney of record (Alston & Bird LLP) and the existence of the outstanding Office Action of February 4, 2009 was not discovered by the attorney of record until June 2, 2009. The evidence provided by the petitioner has established nonreceipt of the Office action as required under MPEP 711.03(c)(I)(A).

For the above-stated reasons, the petition is **GRANTED**. Accordingly, the shortened statutory period that was originally set forth in the Office Action mailed on 04 February 2009 is hereby reset to run FROM THE DATE OF 02 June 2009.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-3719.

/Kakali Chaki/

Kakali Chaki, Quality Assurance Specialist
Technology Center 2100